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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/574,372

12/01/2006

Gil Levy

44177

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67801

7590

09/09/2010

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EXAMINER

GILBERT, SAMUEL G

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

09/09/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/574,372	Applicant(s) LEVY, GIL	
	Examiner Samuel G. Gilbert	Art Unit 3735	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 13-20, 25-34, 39, 42 and 46 is/are rejected.
- 7) ☒ Claim(s) 9-12, 21-24, 35-38, 40, 41, 43-45, 47 and 48 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: ____. |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :4/2/2007, 7/30/2008, 3/2/2010, 5/25/2010, 8/17/2010.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 13-20, 25-34, 39, 42 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Popper (2,391,343).

Claim 1 - element -10- is a sheet, a frame including first and second arms -13-, and a connecting element -14-. The device of popper is sized, shaped and made from a material that is at least temporarily implantable.

Claim 2 - the sheet -10- is formed from a first and second layer -11- with a frame between the two layers -11-.

Claim 3 - the plies -11- are considered dividers.

Claim 4 - the plies are formed by rubber a biological material.

Claim 5 - the plies(sheets) have a substantially flat configuration. The shape of the sheets is changed by the arms -13-.

Claim 6 - steel is a biodegradable material.

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Claim 7 - the arms are formed with spring material, column 2 line 8, column 2 line 16 and flexible enough to deform for insertion column 2 lines 32-38.

Claim 8 - each arm pivots around connector -14-(pivot) as set forth in figure 2 and 6.

Claim 13 - elements -11- form a sheet, elements -13- form a frame having a first configuration shown in figure 4(compressed) and a second configuration(expanded) shown in figure 7.

Claim 14 - the sheet -10- is formed from a first and second layer -11- and the frame is positioned between the two layers -11-.

Claim 15 - the plies -11- are considered dividers.

Claim 16 - the plies are formed from rubber a biological material.

Claim 17 - a frame including first and second arms -13- and a connecting element -14-.

Claim 18 - steel is a biodegradable material.

Claim 19 - the arms are formed with spring material, column 2 line 8, column 2 line 16 and flexible enough to deform for insertion column 2 lines 32-38.

Claim 20 - each arm pivots around connector -14-(pivot) as set forth in figure 2 and 6.

Claim 25 - device -10- is a sutureless implant for supporting a pelvic organ and having contoured edges as shown in figure 7 and described in page 2 column 2 lines 5-13.

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Claim 26 - the device includes a frame (arms -13-) and a sheets -11- both having contoured edges.

Claim 27 - the sheet -10- is formed from a first and second layer -11- and the frame is positioned between the two layers -11-.

Claim 28 - the plies -11- are considered dividers.

Claim 29 - the plies are formed of rubber a biological material.

Claim 30 - the plies 11 are substantially flat as set forth above.

Claim 31 - steel is a biodegradable material.

Claim 32 - the arms are formed with spring material, column 2 line 8, column 2 line 16 and flexible enough to deform for insertion column 2 lines 32-38.

Claim 33 - a frame including first and second arms -13- and a connecting element -14-.

Claim 34 - each arm pivots around connector -14-(pivot) as set forth in figure 2 and 6.

Claims 39 - the device is inserted into the vagina and positioned between the uterus and the vagina which would inherently treat prolapse of the uterus, the frame is compressed as shown in figure 4.

Claim 42 - the frame is bent during compression.

Claim 46 - the expanding comprises unbending the portion of the frame.

Allowable Subject Matter

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Claims 9-12, 21-24, 35-38, 40, 41, 43-45,47 and 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents 1,275,520, 5,656,012, 5,334,217, 3,422,817 and 6,656,206 teach related implantable devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G. Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on Monday-Friday 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor II can be reached on 571-272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Samuel G. Gilbert/
Primary Examiner, Art Unit 3735